

PURSUANT TO RULE 27(F) OF THE MISSISSIPPI RULES OF APPELLATE PROCEDURE,
THE RULES COMMITTEE ON CIVIL PRACTICE AND PROCEDURE SEEKS COMMENTS
FROM THE BENCH, THE BAR AND THE PUBLIC ON THE PROPOSED
AMENDMENT TO RULE 612 OF THE MISSISSIPPI RULES OF EVIDENCE

RULE 612. REFRESHING THE MEMORY OF A WITNESS

(a) Subject to Rule 403, any party may use a writing, recording or object to refresh the recollection of a witness who claims once to have known, but is unable to recall, the answer to a question. After the witness's recollection is refreshed, the witness may answer the question without reference to the writing, recording or object.

(b) If a witness uses a writing, recording or object to refresh his memory for the purpose of testifying, either (1) while testifying, or (2) before testifying, if the court in its discretion determines it is necessary in the interests of justice, an adverse party is entitled to have the writing, recording or object produced at the hearing, to inspect it, to cross-examine the witness thereon, and to introduce into evidence those portions which relate to the testimony of the witness. If it is claimed that the writing, recording or object contains matters not related to the subject matter of the testimony, the court shall examine the writing, recording or object in camera, excise any portions not related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal. If a writing, recording or object is not produced or delivered pursuant to order under this rule, the court shall make any order justice requires, except that in criminal cases when the prosecution elects not to comply, the order shall be one striking the testimony or, if the court in its discretion determines that the interests of justice so require, declaring a mistrial.

Comments must be filed with the:
Clerk of the Supreme Court
Gartin Justice Building
Post Office Box 249
Jackson, Mississippi 39205-0249

Deadline: May 8, 2014